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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,948	10/30/2003	Mark Henry Butler	300202359-2	6277

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EXAMINER	
JAKOVAC, RYAN J	
ART UNIT	**PAPER NUMBER**
2445	

NOTIFICATION DATE	DELIVERY MODE
08/05/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/695,948	BUTLER, MARK HENRY	
	Examiner	Art Unit	
	RYAN J. JAKOVAC	2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 May 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,54,57 and 58* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,54,57 and 58* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 05/01/2009 have been fully considered but they are not persuasive.

2. Applicant argues in summary that the combination of Logston and Windows NT Server does not disclose periodically notifying a master monitoring processor of context delivery related information. The Examiner respectfully disagrees. Windows NT Server periodically provides detailed reporting information. This is disclosed in at least pg. 410 of Windows NT Server, specifically fig. 9.73, which shows a system log which is periodically updated with system related events.

3. Applicant argues that the combination of Logston, Windows NT Server, and AAPA does not teach the features recited in claim 54, namely:

> *"a server references cache memory to create a profile of at least one client device using a profile-diff transmitted to the server by the client device and the reference profile retrieved from cache memory"*

However, the Examiner respectfully disagrees. Please refer to the claim mappings below (emphasis added).

a server references cache memory (AAPA [0014], "**Servers** are known to **cache reference profiles in a local memory** to reduce the time, and/or bandwidth, needed **for profile resolution**. **Retrieving a reference profile from a local cache** is more efficient than retrieving it repeatedly from a remote profile repository over the Internet.")

to create a profile of at least one client device using a profile-diff transmitted to the server by the client device (AAPA, [0013], when a server receives a request from a client device which has conveyed with it delivery context information the server "currently retrieves the reference profile and **merges it with the profile-diff in a profile resolution operation to establish the profile of the target client device**.") and

the reference profile retrieved from cache memory (AAPA, [0013], the server "retrieves the reference profile". [0014], "**Servers are known to cache reference profiles in a local memory**...", "**Retrieving a reference profile from a local cache** is more efficient than retrieving it repeatedly from a remote profile repository over the Internet.").

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-5, 57-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0032754 to Logston et al (hereinafter Logston) in view of Windows NT Server.

Regarding claim 1, 5, Logston teaches a networkable resource server adapted in use to serve out resources to client devices of a network (Logston, abstract, transfer of device resource and configuration information, distribution of entity components, also, paragraph [0037], paragraph [0042-0043], server serves resources to client, also, paragraph [0055], client query to server. Fig. 1, client server relationship.), the server having delivery context aware activity software which when run on a processor of the server causes a report to be produced containing data related to delivery context aware requests, received by the server for resources (Logston, paragraph [0046], server contains database of configuration information relating to client devices, See at least paragraphs [0048-0049], [0052], [0059], [0061], [0082].),

Logston does not expressly disclose wherein the report includes information concerning characteristics of the server, network characteristics linking the server and the client devices, characteristics of the client devices, and characteristics of any intermediary devices in a network path between the client devices and the server, however, Windows NT Server discloses wherein the report includes information concerning characteristics of the server, network characteristics linking the server and the client devices, characteristics of the client devices, and characteristics of any intermediary devices in a network path between the client devices and the server (Windows NT Server, pg. 404-411, Enhancing File System Securing through Auditing, auditing is enabled which provides a detailed report on network activity. See also pg. 980-985 which disclose the monitoring and logging of disk performance.).

wherein the report is sent out periodically to a master monitoring processor (Windows NT Server, see at least pg. 409-411, auditing reports are sent to the event viewer.), to thereby notify the master monitoring processor of context delivery related information that has changed

since the master monitoring processor was last updated (Windows NT Server, see at least pg. 410-411, updated reports are generated and viewed. updated reports are distinguished by time, date, and category.).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to combine wherein the report includes information concerning characteristics of the server, network characteristics linking the server and the client devices, characteristics of the client devices, and characteristics of any intermediary devices in a network path between the client devices and the server as taught by Windows NT Server with the networkable resource server of Logston in order to maintain a log of audited events relating to server access (Windows NT Server, pg. 404). It would have been further obvious to combine wherein the report is sent out periodically to a master monitoring processor to thereby notify the master monitoring processor of context delivery related information that has changed since the master monitoring processor was last updated in order to audit and monitor system events (Windows NT Server, see at least 404-411.).

Regarding claim 2, the combination of Logston and Windows NT Server teaches a server and computer readable medium according to claim 1 and 19 adapted to transmit the report externally of the server to another processor (Logston, paragraph [0048], [0062]. information sent to external and remote computers. See also paragraph [0082]).

Regarding claim 3, The combination of Logston and Windows NT Server teaches a server and computer readable medium according to claim 1 and 19 in which there is provided a

data log held in a data log memory, the data log being adapted to store data on activity of the server, including information on delivery context aware activity (Logston, paragraph [0046], server contains database of configuration information relating to client devices, See at least paragraphs [0048-0049], [0052], [0059], [0061], [0082].), and wherein the delivery context aware activity software is adapted to interrogate the data log to obtain the data related to delivery context aware requests for resources received by the server (Logston, paragraph [0082], statistics calculated and stored in database.), which is adapted to cause acquired data to be sent out of the server proactively, without an input trigger signal from outside of the server (Logston, [0059-0062], data is sent proactively out of the server to a plurality of remote databases. See also, fig. 4-4a.).

Regarding claim 4, The combination of Logston and Windows NT Server teaches a server and computer readable medium according to claim 1 adapted proactively to send out said report onto the network to which the server is connected (Logston, paragraphs [0048-0049], [0062].).

Regarding claim 57, The combination of Logston and Windows NT Server teaches a server according to claim 1. The combination of Logston and Windows NT Server teaches a does not expressly disclose wherein the report is sent out periodically to the master monitoring processor at a fixed update frequency. However, the combination of Logston and Windows NT Server teaches wherein the report is sent out periodically to the master monitoring processor and it would have been obvious to one of ordinary skill in the art at the time of the invention to report

at fixed update frequencies since this amounts to applying a known technique to a known device to yield predictable results. MPEP § 2141.

Regarding claim 58, The combination of Logston and Windows NT Server teaches a server according to claim 1. The combination of Logston and Windows NT Server does not expressly disclose wherein the report includes information as to a fraction of client devices that are currently seeking resources from the server that use profile differences.

However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability. See *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the nonfunctional descriptive material with the claimed invention because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the descriptive material does not patentably distinguish the claimed invention.

6. Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Logston in view of Windows NT Server and further in view of Applicant's Admitted Prior Art (hereinafter AAPA).

Regarding claim 54, The combination of Logston and Windows NT Server teaches a server according to claim 1,

wherein the server further comprises a profile resolver which receives from at least one of the clients details of a profile difference, and details of a reference profile related to the at least one of the clients (AAPA, [0012], "CC/PP and UAProf break up the profile into two sections: the reference profile, representing a standard profile for that kind of client device, and a list of perturbations, or overrides, specific to the specific instances of the kind of device, specific to the actual client device making the request. These are known as the "profile-difference" (or profile-diff). See AAPA, [0011], "There are currently at least two standards used by client devices to describe their capabilities to data work supply devices, such as web servers: Composite Capabilities/Preferences Profile (CC/PP) (created by the world-wide web consortium), and User Agent Profile (UAProf) (created by the WAP forum). CC/PP and UAProf enable a client device to specify its capabilities, and enable intermediary devices to specify their capabilities. These capabilities, along with the capabilities of the network service between the client device and the work supplier device, comprising the delivery context, can be used by delivery context aware resource supplier devices to perform content specialization (i.e. adapt, select, or generate content based on the delivery context information), as discussed"), and

which references a cache memory to create a profile of the at least one client device using a profile-diff transmitted to the server by the at least one client device and the reference profile retrieved from the cache memory (AAPA, [0013-0014], "When a delivery context aware work supply device, such as a server, receives a request for a data work (e.g. a HTTP request) from a client device which has conveyed with it delivery context information it currently retrieves the

reference profile and merges it with the profile-diff in a profile resolution operation to establish the profile of the target client device." "Servers are known to cache reference profiles in a local memory to reduce the time, and/or bandwidth, needed for profile resolution.").

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to combine wherein the server further comprises a profile resolver which receives from at least one of the clients details of a profile difference, and details of a reference profile related to the at least one of the clients, and which references a cache memory to create a profile of the at least one client device using a profile-diff transmitted to the server by the at least one client device and the reference profile retrieved from the cache memory as taught by AAPA with the combination of Logston and Windows NT Server in order to allow client devices to describe their capabilities to web servers to resolve client profiles (AAPA, [0011-0014].).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. JAKOVAC whose telephone number is (571)270-5003. The examiner can normally be reached on Monday through Friday, 7:30 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on 571-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ryan Jakovac/

/VIVEK SRIVASTAVA/

Supervisory Patent Examiner, Art Unit 2445